

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

MARK RIDENOUR,	)	Case No. 1:21-cv-1258
	)	
Plaintiff,	)	Judge J. Philip Calabrese
	)	
v.	)	Magistrate Judge David A. Ruiz
	)	
AVI FOOD SYSTEMS, INC.,	)	
	)	
Defendant.	)	
	)	

**OPINION AND ORDER**

On November 24, 2021, the Court held a status conference to resolve a discovery dispute and discuss the case’s next steps. At this conference, Plaintiff Mark Ridenour, who attended pro se, expressed to the Court and counsel for Defendant his desire to dismiss the case on particular terms that Defendant accepted. The Court informed the parties that it interpreted Plaintiff’s request as one under Rule 41(a)(2) and that, upon compliance with the terms, it would consider dismissing the case under Rule 41(a)(2). The parties agreed to that course of action. The Court now considers Plaintiff’s request to dismiss the case under Rule 41(a)(2).

**DISCUSSION**

After a defendant has filed an answer, as here, or motion for summary judgment, a plaintiff may obtain a voluntary dismissal “only by court order, on terms that the court considers proper.” Fed. R. Civ. P. 41(a)(2). Requiring court approval “protect[s] the nonmovant from unfair treatment.” *Grover by Grover v. Eli Lilly & Co.*, 33 F.3d 716, 718 (6th Cir. 1994) (citation omitted).

Whether to grant dismissal “is within the sound discretion of the district court.” To avoid abusing their discretion, courts consider whether “the defendant would suffer plain legal prejudice as a result of dismissal without prejudice, as opposed to facing the mere prospect of a second lawsuit. *Id.* (citation and quotation omitted).

Considering that (1) Plaintiff has requested dismissal during the discovery phase, (2) that his dismissal request was contingent on certain terms and conditions, and (3) Defendant agreed to those terms of dismissal without objection, the Court finds that dismissal is warranted but that Defendant will suffer plain legal prejudice if the Court dismisses the case without prejudice.

### CONCLUSION

Therefore, the Court **GRANTS** Plaintiff’s request and **DISMISSES WITH PREJUDICE** pursuant to Rule 41(a)(2). The Clerk shall enter judgment accordingly.

**SO ORDERED.**

Dated: December 6, 2021

A handwritten signature in black ink, appearing to read 'J. Calabrese', with a long horizontal flourish extending to the right.

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J. Philip Calabrese  
United States District Judge  
Northern District of Ohio